

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

<b>DERRECK GRAY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. CIV-16-672-F</b>
	)	
<b>STATE OF OKLAHOMA,</b>	)	
	)	
<b>Defendant.</b>	)	

**REPORT AND RECOMMENDATION**

Derreck Gray (Plaintiff), a Payne County Detention Center detainee appearing pro se, filed this civil rights action under 42 U.S.C. § 1983 alleging violations of his constitutional rights. Doc. 1. United States District Judge Stephen P. Friot referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B), (C). Doc. 3.

The undersigned advised Plaintiff that his action could not proceed until either he paid the \$400 filing fee or the court granted him leave to proceed without prepayment of the fee. Doc. 4. The undersigned ordered Plaintiff to cure this deficiency by July 13, 2016, and specifically cautioned that his failure to do so could result in the dismissal of this action. *Id.*<sup>1</sup>

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<sup>1</sup> In addition, the undersigned instructed the Clerk of Court to send Plaintiff the necessary form to comply with the order.

Plaintiff failed to cure the deficiency or to otherwise respond to that order. The undersigned then sua sponte extended his time to cure the stated deficiency until August 4, 2016. Doc. 5. The undersigned advised Plaintiff that if he failed to do so, “the undersigned, without additional notice, will recommend the dismissal of this action without prejudice to refile.” *Id.* at 1-2.

To date, Plaintiff has not complied. He has not shown good cause for his failure to do so, and he has not requested an extension of time to comply with the orders. After filing his complaint on June 17, 2016, Plaintiff simply stopped communicating with the court. Plaintiff’s failure to comply with court orders, together with a court’s right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (noting the court applies Fed. R. Civ. P. 41(b) to allow sua sponte dismissal for “failure to . . . comply with the rules of civil procedures or court’s orders”).

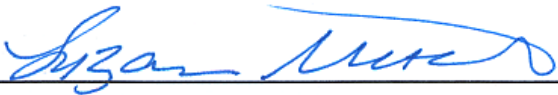
### **RECOMMENDATION AND NOTICE OF RIGHT TO OBJECT**

The undersigned recommends the dismissal without prejudice of Plaintiff’s action.

The undersigned advises Plaintiff of his right to file an objection to this Report and Recommendation with the Clerk of Court by August 31, 2016, under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). The undersigned further advises Plaintiff that failure to make a timely objection to this Report and Recommendation waives the right to appellate review of both factual and legal questions contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the Magistrate Judge in the captioned matter.

ENTERED this 11th day of August, 2016.

  
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SUZANNE MITCHELL  
UNITED STATES MAGISTRATE JUDGE